

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

AT BECKLEY

CENTER FOR BIOLOGICAL DIVERSITY,
et al.,

Plaintiffs,

v.

UNITED STATES FOREST SERVICE, *et al.*

Defendants,

v.

SOUTH FORK COAL COMPANY, LLC,

Defendant-Intervenor.

Civil Action No. 5:24-cv-00274 (Judge Volk)

DECLARATION OF DOUGLAS MCCLURE WOOD

I, Douglas McClure Wood, declare that if called as a witness in this action I would competently testify of my own personal knowledge as follows:

1. I am a member of Center for Biological Diversity, West Virginia Highlands Conservancy, and Kanawha Forest Coalition. I became a member of the Center for Biological Diversity on November 22, 2019; a member of the West Virginia Highlands Conservancy on April 20, 2010, and a member of the Kanawha Forest Coalition on April 1, 2014.

2. I am a retired aquatic ecologist. Prior to retiring, I worked for the West Virginia Department of Environmental Protection's Watershed Assessment Program. In my retirement, I continue to work part time for the West Virginia Department of Natural Resources as a writer of management plans for the state natural areas.

3. I live near Charleston, West Virginia. I majored in wildlife management, receiving a Bachelor of Science in wildlife management in 1977.

4. I am interested in bats, and specifically the endangered northern long-eared bat and Indiana bat. I have participated in numerous mist net surveys in West Virginia for bats, including the northern long-eared bat and Indiana bat, to protect bat maternity colonies in the summer from the harmful effects of mining, roads, logging, and other activities that can disturb and cause harm to bats.

5. Most recently, I helped with a bat mist net survey in April 2015 in the Kanawha State Forest, during which my team caught a northern long-eared bat in the mist net. I am aware that many northern long eared bats have maternity colonies and hibernacula in West Virginia and that Indiana bats use the forests in West Virginia to form maternity colonies and forage in the summer. Specifically, I am aware of Cruz et al. (2023), a study which shows the distribution of northern long-eared bats in the Monongahela National Forest, including records of northern long-eared bat captures and roosts near the Rocky Run Mine and haul roads. I am concerned that disturbance to their roosting and foraging habitat in the forests of the Cherry River watershed could cause them to disappear from the area forever.

6. I have also searched for candy darters multiple times in the past. Using a bathyscope, I attempted observations in Sitlington Creek sometime around 2011, in the Greenbrier River in 2022 (while teaching a Master Naturalist Class), in the East Fork of Greenbrier River in 2023 (after assisting the Greenbrier Economic and Development Corporation to apply for a Federal Lands Access Program grant to make trail improvements that will prevent sediment from entering the candy darter's habitat), and North Fork of Cherry River in 2024 (on a brook trout fishing trip). I also enjoy looking for candy darters when I fish for brook trout from

near the South Fork's mouth, just upstream of Richwood to the confluence of Cold Knob Fork. In the fall, when the brookies are breeding, and if there is enough water in the streams, I also fish in South Fork upstream of Cold Knob Fork, in Cold Knob Fork, and in Rocky Run. Although I did not have any success in finding candy darters despite looking, I did catch some brook trout on the 2024 trip.

7. Jason Morgan is the West Virginia Department of Environmental Protection's expert on the candy darter. He informed me recently that the populations in the Greenbrier Watershed are nearly all compromised by hybridization with another darter. Only the Gauley Watershed populations are pure, making them even more important to the survival of the species.

8. I intend to return to the Cherry River watershed to look for candy darters on a regular basis and plan to make multiple trips to the watershed in 2025. I plan to visit in early and late summer, and then again in early autumn, but specific dates will be weather and rainfall dependent.

9. Professionally, knowing more about the species helps me write better Natural Area Management Plans and teach Master Naturalist Classes with factual information. Recreationally, it is fun to look for and observe the species and ponder the complexities of ecosystems. I find the complexities of ecosystems to be more aesthetically pleasing than a beautifully landscaped garden. Knowing that these species exist in particular habitats and ecosystems brings great joy to me. My concern for the candy darter's, northern long-eared bat's, and the Indiana bat's survival causes me angst and frustration, but I find joy in knowing that some individuals still survive.

10. My work in writing State Natural Area management plans involves these species because I must include management tasks for the threatened, endangered, and rare species found

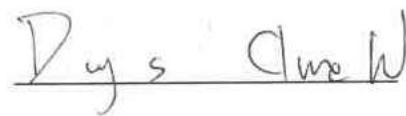
in the Natural Areas. The loss of the species would require me to rewrite the management plans and would require the West Virginia Department of Natural Resources to reconfigure its management tasks.

11. The Forest Service's failure to follow the ESA and NEPA procedures that would protect candy darters, northern long-eared bats, and Indiana bats and their habitats in the Cherry River watershed detract from and diminish my ability to enjoy the area.

12. If this Court were to order the Forest Service to complete the necessary environmental reviews, which may result in increased efforts to eliminate or alleviate the impacts associated with the mine and the haul roads, that would redress my injury, at least in part, because it means that the candy darter and the other species that call the South and North Fork Cherry River home may receive greater protections, increasing the likelihood that I will be able to continue to view them in the future.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 21, 2024, in Hurricane, West Virginia.

A handwritten signature in dark ink, appearing to read "Dy s Clure W", written over a horizontal line.

Douglas McClure Wood